

Message Text

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PAGE 01 STATE 172797
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FOR UNDER SECRETARY NEWSOM

E.O. 11652: N/A

TAGS: EFIN, PK

SUBJECT: INTERPRETING THE 1974 DEBT AGREEMENT WITH PAKISTAN

THE FOLLOWING BACKGROUND PAPER WAS REQUESTED BY JOHN
FORBES IN UNDER SECRETARY NEWSOM'S OFFICE. REQUEST
IT BE PASSED TO HIM IN TEHRAN.

SUMMARY

A TECHNICAL QUESTION HAS ARISEN REGARDING THE PROPER
INTERPRETATION OF LANGUAGE IN THE 1974 DEBT AGREEMENT
WORKED OUT BY THE IBRD WITH PAKISTAN. IF THE USG ACCEPTS
THE PAKISTANI INTERPRETATION, WE WILL HAVE TO RESCHEDULE
2.8 MILLION DOLLARS IN DEBT SERVICE FALLING DUE TO AID
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PAGE 02 STATE 172797

THIS YEAR. STATE IS PREPARED TO ACCEPT THE PAKISTANI
INTERPRETATION,BUT TREASURY SEES THE ISSUE AS ONE OF
PRINCIPLE AND OPPOSES IT. THE TREASURY OFFICIALS NEEDED
TO REVERSE THIS POSITION ARE NOT IN TOWN. WE WILL TRY
TO REACH THEM AND INFORM YOU OF THE DECISION BY CABLE.

BACKGROUND

THE AMOUNT THE USG IS DUE TO RESCHEDULE UNDER THE TERMS OF THE FOUR-YEAR 1974 AGREEMENT IS BASED ON DEBT SERVICE DUE TO THE U.S. ON QTE EXTERNAL PUBLIC AND PUBLICLY GUARANTEED CIVIL DEBT UNQTE. USG RESPONSIBILITY IN DEBT RENEGOTIATIONS HAS TRADITIONALLY RELATED ONLY TO USG DIRECT LOANS OR TO LOANS GUARANTEED BY THE USG. THE GOP, HOWEVER, BELIEVE THE DEFINITION SHOULD ALSO INCLUDE 3 LOANS GUARANTEED BY THE GOP, BUT NOT BY THE USG. (THE GOP IS NOT ASKING THAT WE RESCHEDULE THESE 3 LOANS, WHICH WE HAVE NO AUTHORITY TO DO, BUT THAT THEY BE INCLUDED IN THE DATA BASE FROM WHICH THE AMOUNT OF USG DEBT RELIEF IS COMPUTED.)

THE ISSUE IS NOT CLEARCUT AND IS LARGELY THE RESULT OF POOR DRAFTING BY THE IBRD. THE AMBIGUITY OF THE LANGUAGE, HOWEVER, GIVES MERIT TO THE GOP INTERPRETATION PARTICULARLY SINCE THE IBRD CONTENDS IT TO BE THE CORRECT ONE.

ARGUMENTS FAVORING ACCEPTING THE GOP INTERPRETATION INCLUDE:

(1) IT IS FULLY CONSISTENT WITH OUR POSITION OF IMPLEMENTING FULLY THE PROVISIONS OF THE IBRD AGREEMENT;

(2) THE UNIQUENESS OF THE 1974 RESCHEDULING INSURES LIMITED OFFICIAL USE

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PAGE 03 STATE 172797

THAT NO PRECEDENT WILL BE SET (WAS ASSOCIATED WITH SPLIT OF PAKISTAN AND BANGLADESH AND THE NECESSITY TO ACCOUNT FOR ALL PRE-WAR PAKISTANI DEBT);

(3) ACCEPTING THE GOP INTERPRETATION SHOWS USG WILLINGNESS ADDRESS DEBT ISSUES CONSTRUCTIVELY. WE THUS AVOID RISK OF AGGRAVATING FURTHER GOP DISPLEASURE WITH USG REFUSAL TO PARTICIPATE IN A NEW RESCHEDULING; AND

(4) THE UK AND JAPAN HAVE AGREED TO GO ALONG WITH THE PAKISTANI INTERPRETATION. THE NETHERLANDS REFUSED. (THE ISSUE DID NOT ARISE WITH OTHER CREDITORS.)

TREASURY'S POSITION IS THAT AGREEING TO THE PAKISTANI INTERPRETATION IS AN INDIRECT BAIL-OUT OF THE PRIVATE LENDERS, WOULD CONSTITUTE AN UNDESIRABLE PRECEDENT AND THEREFORE MUST BE OPPOSED. THEY ARE CORRECT IN THAT CURRENCY IS FUNGIBLE. WE WOULD NOT BE RESCHEDULING PRIVATE DEBT WHICH IS A VERY KEY PRINCIPLE. GIVEN THE SMALL AMOUNTS INVOLVED, THE SPECIAL CIRCUMSTANCES BEHIND THE 1974 AGREEMENT, THE FACT THAT THE IBRD AGREES WITH THE PAKISTANI INTERPRETATION, WE BELIEVE TREASURY IS EXAGGERATING GREATLY THE DANGERS OF SETTING AN UNDESIRABLE

PRECEDENT. IF SOME MARGINAL POLITICAL RETURN MAY BE
GAINED BY INTERPRETTING THE AGREEMENT A LITTLE MORE
BROADLY, IT SHOULD OUTWEIGH THE ECONOMIC COSTS. VANCE

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